

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
ST. JOSEPH DIVISION

NEIL W. DAVIS, TERESA T. DAVIS	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 15-06104-CV-SJ-HFS
	)	
ATLAS ROOFING CORPORATION	)	
	)	
Defendant.	)	

**ORDER TO SHOW CAUSE**

On or about May 21, 2015, plaintiffs filed suit in the Circuit Court of Platte County, Mo., asserting claims based on the alleged faulty installation of a roof on their home.<sup>1</sup> The docket sheet indicates that plaintiffs’ counsel sought default judgment against VanTrump on or about July 8, 2015; the record does not reflect any action on this motion. (doc. 1-1).

On August 7, 2015, Atlas removed the action to this court pursuant to 15 U.S.C. § 2310(d) which gives this court original jurisdiction over the case under the Magnuson-Moss Warranty Act “MMWA” unless the amount in controversy is less than the sum or value of \$50,000. (doc. 1, ¶ 4). Atlas states that prior to removal, Van Trump consented to removal and authorized Atlas to affix his electronic signature indicating his consent. (Id: ¶ 10). Van Trump’s participation in this matter is therefore unclear. Atlas also states that while the petition did not state an exact amount in damages, only “above \$25,000,” plaintiffs noted in their motion for default judgment an amount of \$100,000.

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<sup>1</sup> The claims were asserted against defendants, Ray J. Van Trump d/b/a Crown Exteriors and Atlas Roofing Corporation, for violation of the Missouri Merchandising Practices Act, negligence, violation of the Magnuson-Moss Federal Trade Commission Act, and breach of contract/warranty.

Recently, plaintiffs' counsel called the court to inquire about the status of this case, noting that a motion for default judgment had been filed. A preliminary review of this matter raises a question of jurisdiction, and that is whether removal was proper. Plaintiffs have not filed a motion to remand, but a lack of federal subject matter jurisdiction may be raised by this court pursuant to 28 U.S.C. § 1447(c) even if the parties do not. Central Associated Carriers, Inc. v. Nickelberry, 995 F.Supp. 1031, 1032 (W.D.Mo. 1998). The court has an independent obligation to examine the petition for removal to determine if federal jurisdiction exists over the case. Id.

Accordingly, Atlas is directed to SHOW CAUSE in writing within fourteen days from the date of this order, offering legal authority for oral consent, if any, justifying removal.<sup>2</sup>

/s/ Howard F. Sachs  
**HOWARD F. SACHS**  
UNITED STATES DISTRICT JUDGE

September 3, 2015

Kansas City, Missouri

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<sup>2</sup> A party seeking to remove a case to federal court bears the burden of establishing subject matter jurisdiction “Perez v Forest Laboratories, Inc.” 902 F.Supp.2d 1238 (E.D.Mo. 2012).